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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,010	07/21/2006	Daisuke Kumaki	0553-0506	9347
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COOK ALEX LTD SUITE 2850 200 WEST ADAMS STREET CHICAGO, IL 60606				
EXAMINER				
GARRETT, DAWN L				
ART UNIT		PAPER NUMBER		
1786				
MAIL DATE		DELIVERY MODE		
06/23/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/587,010

Applicant(s)

KUMAKI ET AL.

Examiner

Dawn Garrett

Art Unit

1786

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This Office action is responsive to the amendment received March 22, 2010. Claims 1 and 2 were amended. Claims 13-16 were added. Claims 4-10 were previously withdrawn as non-elected. The previously considered claims are now considered to comprise allowable subject matter. All claims 1-16 are now under consideration.
2. The rejection of claims 1-3 under 35 U.S.C. 102(b) as being anticipated by Liao et al. (US 6,717,358 B1) is withdrawn.
3. The rejection of claims 1-3 under 35 U.S.C. 102(a) as being anticipated by Matsumoto et al. (US 2005/0098207 A1) is withdrawn.
4. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liao et al. (US 6,717,358 B1) in view of Thompson et al. (US 6,150,043).

Claims 11 and 12 are rejected under 35 U.S.C. 102(a) as being anticipated by Matsumoto et al. (US 2005/0098207 A1) in view of Thompson et al. (US 6,150,043).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 4-6, 8-9, 11, and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4, 5, and 8 comprise multiple sentences within the claim and a claim should only comprise a single sentence. Furthermore, the claims recite limitations within parentheses and it is unclear if these limitations in parentheses are optional. It is suggested the parentheses be removed. Additionally, the claims recite a phrase beginning with the word "Alternatively...", which renders the R definitions indefinite, because they are previously defined as either hydrogen or an alkyl group. Clarification and/or correction are required.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1-3 and 11-16 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 4, 5, 7, 8, 10, 11, 17, 18, 20, 21, 23, 24, 26, and 27 of U.S. Patent No. 7,564,052. Although the conflicting claims are not identical, they are not patentably distinct from each other because although the wording is not identical and '052

specifies “TPAQn” as a first layer material, ‘052 claims a first, second, and third layer for a light emitting element comprising material within the limitations of instant claims 1-3, 11 and 12.

9. Claims 1-3, 11-16 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 3, 5, 7, 11, and 12 of U.S. Patent No. 7,598,670. Although the conflicting claims are not identical, they are not patentably distinct from each other because although the claim wording is not identical, the layers disclosed by ‘670 for a device structure comprise materials meeting the requirements for the materials of the layers of the instant claims.

10. Claims 1-3 and 10-16 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 5, 6, 7, 14, 15, 21 of copending Application No. 10/582,249. Although the conflicting claims are not identical, they are not patentably distinct from each other because although the claim wording is not identical, the specific materials claimed for the first, second and third layers by ‘249 meet the requirements for materials of the layers of the instant claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

11. Claims 1-3 and 11-16 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-40 of copending Application No. 10/577,472. Although the conflicting claims are not identical, they are not

patentably distinct from each other because although the claim wording is not identical, the materials claimed for the first, second and third layers of a light emitting device structure claimed by '479 meet the requirements for materials of the layers of the instant claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented. (Note: The application is scheduled to issue as a patent July 2010).

Allowable Subject Matter

12. Claim 7 is allowed. Claims 1-6 and 8-16 comprise allowable subject matter in terms of the prior art. The prior art fails to teach or to render obvious first and second layers as recited in combination with the other recited features of a light emitting device. Note: Double patenting rejections and 35 U.S.C. 112, second paragraph, rejections have been set forth in this Office action over claims 1-6 and 8-16 respectively.

Response to Arguments

13. Applicant's arguments filed March 22, 2010 have been fully considered but they are not persuasive.

Regarding the prior obviousness double patenting rejections, applicant argues patent '052 and application '249 do not comprise the specific wording directed to a ratio. The examiner submits '052 and '249 describe a combination of materials that meet the requirements of the instant claims. Electron transporting and hole transporting type materials are set forth in the

'052 and '249. The electron transporting materials are deemed to have electron mobility and the hole transporting materials are deemed to have hole mobility as required by the instant claims.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dawn Garrett whose telephone number is (571) 272-1523. The examiner can normally be reached Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dawn Garrett/
Primary Examiner, Art Unit 1786

June 17, 2010